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VERNAL MITCHELL, JR. *v.* IANINA BOGONOS
(AC 44980)

Elgo, Moll and Suarez, Js.

Syllabus

The defendant, an immigrant from Ukraine, appealed to this court from the judgment of the trial court dissolving her marriage to the plaintiff and entering certain financial orders. Prior to trial, the plaintiff failed to timely provide the defendant with a financial affidavit pursuant to the automatic orders and court-ordered tax documents, and the defendant filed a motion for contempt and requested attorney's fees. The court did not directly address the defendant's motion for contempt in its memorandum of decision on its judgment dissolving the marriage but did not award attorney's fees to either party. *Held:*

1. The defendant could not prevail on her claim that the trial court abused its discretion in refusing to address her motion for contempt; although the court did not issue a ruling directly addressing the motion, it heard evidence as to the plaintiff's alleged violation of court orders and indicated that it would consider the merits of the motion and issue any appropriate orders in rendering its final decision, and this court construed the trial court's memorandum of decision as an adjudication on the merits of the defendant's motion.
2. The defendant could not prevail on her claim that the trial court erred in not finding the plaintiff in contempt and awarding her attorney's fees: this court declined to make factual findings as to whether the plaintiff was subject to clear and unambiguous directives from the trial court and wilfully failed to comply with such directives, as fact bound issues are entrusted to the sound discretion of the trial court; moreover, it was not the role of this court to exercise discretion to determine what attorney's fees, if any, were just if contempt had been established but only to review the trial court's exercise of its discretion on that issue.
3. The trial court did not abuse its discretion in awarding the plaintiff his comic book collection without hearing evidence from an appraiser as to its value; the court found that the defendant introduced no evidence as to any contribution she made to the acquisition, preservation or appreciation in value of any of the plaintiff's assets, including the collection, which the plaintiff started as a child, and the decision to award the plaintiff the collection was not related to an assessment of its value.
4. Contrary to the defendant's claim, the trial court did not err in failing to impute an income of \$150,000 to the plaintiff; the evidence showed that the plaintiff's reported annual income during the years of the marriage was between \$30,000 and \$56,000, and the court was not required to make a finding of the plaintiff's earning capacity but was entitled to rely on the plaintiff's actual income.
5. The defendant could not prevail on her claim that the trial court abused its discretion and exceeded its statutory authority in finding she had committed fraud in submitting an application for asylum on the basis of domestic abuse, as this court could not review a ruling that the trial court did not make.

Submitted on briefs September 21, 2022—officially released March 7, 2023

Procedural History

Action for the dissolution of a marriage, and for other relief, brought to the Superior Court in the judicial district of Danbury, where the defendant filed a cross complaint; thereafter, the defendant filed a prejudgment motion for contempt and for attorney's fees; subsequently, the matter was tried to the court, *Truglia, J.*; judgment dissolving the marriage and granting certain other relief, from which the defendant appealed to this court. *Affirmed.*

Luis A. Medina filed a brief for the appellant (defendant).

SUAREZ, J. The defendant, Ianina Bogonos, appeals from the judgment of the trial court dissolving her marriage to the plaintiff, Vernal Mitchell, Jr. The defendant claims that the court (1) improperly refused to decide her motion for contempt and other pretrial motions, (2) erred in not finding the plaintiff in contempt and not awarding her attorney's fees,¹ (3) improperly permitted the plaintiff to decide that his comic book collection was not subject to distribution, (4) failed to impute income of \$150,000 to the plaintiff, and (5) abused its discretion and exceeded its statutory authority in finding that the defendant committed fraud.² We affirm the judgment of the trial court.

The following facts, which were either found by the court or are otherwise undisputed, and procedural history are relevant to the resolution of this appeal. The parties were married on March 12, 2015, in Danbury. On August 3, 2020, the plaintiff, through counsel, filed a complaint,³ together with a notice of automatic court orders,⁴ seeking a dissolution of marriage and an equitable distribution of assets. On August 31, 2020, the defendant filed a motion for alimony pendente lite in which she requested alimony and the return of an automobile.

On December 1, 2020, the court, *D'Andrea, J.*, held a remote hearing on the defendant's pendente lite motion. At the time of the hearing, the plaintiff appeared in a self-represented capacity and had not filed a financial affidavit. The plaintiff informed the court that he was looking for an attorney and that he was not prepared to proceed on the motion. The court informed the plaintiff that he was in violation of the automatic orders due to his failure to provide the defendant with a financial affidavit. The court continued the matter to December 15, 2020, to permit the plaintiff either to hire an attorney or to proceed as a self-represented party. On December 1, 2020, the court ordered the plaintiff to provide the defendant with his tax returns for the previous five years on or before December 3, 2020, and a sworn written statement of his income, expenses, assets, and liabilities on or before December 8, 2020. On December 11, 2020, the defendant filed a motion seeking to find the plaintiff in contempt for failure to comply with the automatic orders and for failure to comply with the December 1, 2020 court orders.

On December 15, 2020, the plaintiff appeared with counsel for the continued pendente lite hearing. At the hearing, the plaintiff's counsel represented to the court that she had recently been retained by the plaintiff and that she was not prepared to proceed on the defendant's motion as there was outstanding discovery. Counsel also informed the court that the plaintiff had not filed tax returns for the past five years but was able to produce two years of unfiled tax return drafts. At the

December 15, 2020 hearing, the parties agreed, and the court ordered, that the plaintiff was to “provide” the defendant with one automobile and to pay the defendant pendente lite alimony in the amount of \$290 monthly. The matter was continued to January 15, 2021.

On January 15, 2021, both parties appeared with counsel, and the court held a hearing at which the parties presented evidence on the defendant’s motion for contempt. At the conclusion of evidence, the court reserved decision “until the next time we come here with the understanding . . . counsel can work together and resolve some of these issues. This is not the most complicated dissolution. It should be able to be resolved on [an] amicable basis, and a little more cooperation would probably go a long way toward getting this resolved.”

On July 13, 2021, the court, *Truglia, J.*, commenced a hearing on the underlying dissolution action, which continued for three nonconsecutive days. On August 23, 2021, the last day of evidence, the defendant filed a motion in limine seeking a ruling from the court to have the plaintiff’s comic book collection, which had not been previously disclosed to the defendant, appraised. The motion in limine further sought an order from the court to take into account an increase in the net worth of the plaintiff in accordance with the value of the comic book collection and to grant the defendant a share of its value. The court reserved decision on the motion in limine. In addition, on August 23, 2021, as a preliminary matter, the defendant informed the court that her motion for contempt was still pending. At the hearing on August 23, 2021, the court allowed the defendant an opportunity to introduce evidence if she believed that the plaintiff was wilfully violating an outstanding court order and indicated that it would “issue appropriate orders in [its] final decision.” The defendant then proceeded to put on evidence in support of her position that the plaintiff should be held in contempt.

On September 7, 2021, the court issued a memorandum of decision⁵ in which it found that the parties married on March 12, 2015, and that their marriage had broken down irretrievably. The court further found that the plaintiff was fifty years old and was in good health, was self-employed as an information technology consultant and, in 2019, had an annual income of \$30,000.⁶ The court found that the defendant was born in Ukraine, first came to the United States in 2008 on a two year work visa, and worked as a babysitter. At the time of dissolution, the defendant was thirty-six years old and was in good health, had a bachelor’s degree in hospitality, travel, and restaurant management, and was working as a housekeeper and a hostess at a restaurant, earning \$17,400 in 2019. The court stated that “the defendant’s claims . . . [were] based on three theories

of recovery.” First, that the plaintiff promised to assist her in obtaining legal residency in the United States or citizenship and that he failed to do so. Second, that he was abusive to her throughout their relationship, and third, that he earned more than \$150,000 annually. The court did not find that the plaintiff “reneged on a ‘promise’ to assist her with her immigration application” but found “the plaintiff’s explanation for the delay in filing the [application] credible.” The court did not find the defendant’s claims of abuse credible. Finally, the court found that the defendant did not present any compelling evidence from which it could conclude that the plaintiff had consistently earned more than \$150,000 in each year of the marriage. The court ultimately found that the defendant was more responsible for the breakdown of the marriage.

After carefully considering every factor listed under General Statutes §§ 46b-81⁷ and 46b-82,⁸ the court ordered the marriage dissolved and issued its financial orders. The court ordered the plaintiff to pay alimony to the defendant in the amount of \$500 monthly until March 1, 2023, either party’s death, or the defendant’s remarriage or cohabitation; ordered that each party retain his or her own personal property; awarded the plaintiff his comic book collection free and clear from any claim by the defendant; and ordered that each party was responsible for the debts listed in the respective financial affidavits. The court did not award attorney’s fees to either party. In its decision, the court did not explicitly address the defendant’s motion for contempt. This appeal followed. Additional facts and procedural history will be set forth as necessary.

I

First, the defendant claims that the court improperly refused to decide her motion for contempt and other pretrial motions.⁹ We are not persuaded.

As stated previously in this opinion, on December 11, 2020, the defendant, pursuant to General Statutes § 46b-87, filed a motion asking the court to find the plaintiff in contempt for his failure to comply with certain aspects of the court’s automatic orders (requiring the exchange of financial affidavits and requiring that neither party conceal any property) and for his failure to comply with the court’s December 1, 2020 orders and to award attorney’s fees to her. At a hearing on January 15, 2021, and at the August 23, 2021 hearing on the underlying dissolution action, the court permitted the defendant to present relevant evidence in support of her motion. At the January 15, 2021 hearing, the court stated that it would defer ruling on the motion. At the August 23, 2021 hearing, the court stated that, with respect to the contempt motion, it would issue any orders that it deemed to be appropriate in its final decision. In its final decision, the court neither expressly referred to the motion nor awarded the defen-

dant attorney's fees.

The defendant argues that the court abused its discretion by *refusing* to address her motion for contempt. In support thereof, the defendant cites to our Supreme Court's decision in *Ramin v. Ramin*, 281 Conn. 324, 915 A.2d 790 (2007). In *Ramin*, the trial court *explicitly* refused to address a pendente lite motion for contempt. *Id.*, 330. Our Supreme Court stated, "[i]n summary, the court's comments reveal the following reasons for not ruling on the plaintiff's motion: (1) because the motion was lengthy and detailed, it would consume too much of the court's time to consider it, particularly in light of the court's backlogged docket; (2) the discovery stage of the case already had been pending too long, three years, and, therefore, the case should go to trial without further delay; (3) the plaintiff had enough information to go forward and should take her 'best shot,' because 'there's no such thing as a [100] percent job'; and (4) the imposition of further sanctions on the defendant would not 'help,' that is, they probably would not result in the defendant's cooperation." *Id.*, 341. Our Supreme Court concluded that "[n]one of these reasons proffered by the court in support of its refusal to consider the plaintiff's motion presents an extreme and compelling circumstance that would have justified the court's refusal to consider the plaintiff's motion, which was properly before it." *Id.* It further reasoned that, "in the absence of an extreme, compelling situation, a trial court that has jurisdiction over an action lacks authority to refuse to consider a litigant's motions." (Internal quotation marks omitted.) *Id.*, 336.

Ramin is distinguishable from the present case. In the present case, the court did not explicitly refuse to consider the motion for contempt. To the contrary, the court stated that it was willing to hear evidence on the motion for contempt, and, in fact, the defendant introduced evidence as to the plaintiff's alleged violation of court orders. The court also indicated that it would consider the merits of the motion and issue any appropriate orders in rendering its final decision. "Until the contrary is shown, the law presumes that judges have acted in accordance with the law. We do not presume error." *A. Secondino & Son, Inc. v. LoRicco*, 19 Conn. App. 8, 14, 561 A.2d 142 (1989). Simply put, our review of the record reveals no instance in which the court refused or otherwise expressly declined to address the merits of the defendant's motion for contempt.

In light of the court's statements concerning the plaintiff's motion for contempt, and the fact that there is nothing in the record to suggest otherwise, we construe the trial court's memorandum of decision as implicitly denying the defendant's motion for contempt. The trial court, reminded on various occasions of the pendency of the motion for contempt, denied the defendant's

request for attorney's fees, which was the only relief sought in her motion for contempt. Accordingly, we construe the trial court's decision as an adjudication on the merits of the defendant's motion for contempt.

II

Next, the defendant claims that the court erred in not finding the plaintiff in contempt and awarding her attorney's fees. We are not persuaded.

The defendant's motion for contempt, brought pursuant to § 46b-87, was discussed generally in part I of this opinion. Before this court, the defendant, relying on the evidence that she presented in connection with her motion for contempt, argues that she proved that the plaintiff was in contempt of court and, therefore, that she was entitled to an award of damages and attorney's fees. The defendant argues that such a finding and award were warranted "in light of the plaintiff's year-long contemptuous behavior."

We begin by setting forth the following relevant legal principles. "Contempt is a disobedience to the rules and orders of a court which has power to punish for such an offense. . . . [C]ivil contempt is committed when a person violates an order of court which requires that person in specific and definite language to do or refrain from doing an act or series of acts. . . . In part because the contempt remedy is particularly harsh . . . such punishment should not rest upon implication or conjecture, [and] the language [of the court order] declaring . . . rights should be clear, or imposing burdens [should be] specific and unequivocal, so that the parties may not be misled thereby. . . . To constitute contempt, it is not enough that a party has merely violated a court order; the violation must be wilful. . . . It is the burden of the party seeking an order of contempt to prove, by clear and convincing evidence, both a clear and unambiguous directive to the alleged contemnor and the alleged contemnor's wilful noncompliance with that directive. . . . The question of whether the underlying order is clear and unambiguous is a legal inquiry subject to de novo review. . . . If we answer that question affirmatively, we then review the trial court's determination that the violation was wilful under the abuse of discretion standard." (Internal quotation marks omitted.) *Scott v. Scott*, 215 Conn. App. 24, 38–39, 282 A.3d 470 (2022).

"Whether a party's violation was wilful depends on the circumstances of the particular case and, ultimately, is a factual question committed to the sound discretion of the trial court. . . . Without a finding of wilfulness, a trial court cannot find contempt and, it follows, cannot impose contempt penalties." (Citation omitted.) *O'Brien v. O'Brien*, 326 Conn. 81, 98–99, 161 A.3d 1236 (2017). Moreover, "[t]he award of attorney's fees in contempt proceedings is within the discretion of the

court. . . . An abuse of discretion in granting the counsel fees will be found only if this court determines that the trial court could not reasonably have concluded as it did. . . . Importantly, where contempt is established, the concomitant award of attorney’s fees properly is awarded pursuant to § 46b-87 and is restricted to efforts related to the contempt action.” (Citation omitted; internal quotation marks omitted.) *Malpeso v. Malpeso*, 165 Conn. App. 151, 184, 138 A.3d 1069 (2016).

In the present claim, the defendant essentially invites this court to conclude, as a matter of law and on the basis of the evidence presented during the trial proceedings, that she proved by clear and convincing evidence both that the plaintiff was subject to clear and unambiguous directives from the court and that he wilfully failed to comply with those directives. As the foregoing precedent makes clear, however, these are inherently fact bound issues that are entrusted to the sound discretion of the trial court. This court’s function is to review the trial court’s findings with respect to whether contempt has been proven, not to make such findings in the first instance. Similarly, it is not the role of this court to exercise discretion to determine what attorney’s fees, if any, are just if contumacious conduct has been proven, but to review the trial court’s exercise of discretion in this regard.¹⁰ Accordingly, on the basis of the record before us, we are not persuaded that the defendant has proven error.

III

Next, the defendant claims that the court improperly permitted the plaintiff to “decide for himself that his comic book collection was not subject to distribution.” On the basis of the substance of the argument presented in the defendant’s brief to this court, we interpret her claim to be that the court erred in awarding the plaintiff the comic book collection without having heard evidence from an appraiser with respect to its value. We are not persuaded.

As stated previously in this opinion, on August 23, 2021, the defendant filed a motion in limine in which she sought an opportunity to obtain an appraisal of the plaintiff’s comic book collection. The court did not rule on the motion. The defendant argues that the court’s indecision “directly affected its financial orders and prejudiced the outcome for the defendant.” She argues that, even if the court was to determine that the comic book collection was not subject to equitable distribution, it nevertheless should have considered its appraised value in deciding the defendant’s alimony award. She asserts that, because the court failed to rule on the August 23, 2021 motion, she did not have the information she needed regarding the plaintiff’s income and assets to prepare and present her case, and, therefore, the court lacked the information it needed to “enter orders that were not based on speculation and

conjecture.”¹¹ (Internal quotation marks omitted.)

The following legal principles guide our analysis of this claim. Section 46b-81, which governs the distribution of the assets in a dissolution action, “authorizes the court to assign to either spouse all or any part of the estate of the other spouse” and “provides for the court’s consideration of the length of the marriage, the causes for the . . . dissolution of the marriage . . . the age, health, station, occupation, amount and sources of income, earning capacity, vocational skills, education, employability, estate, liabilities and needs of each of the parties and the opportunity of each for future acquisition of capital assets and income. The court shall also consider the contribution of each of the parties in the acquisition, preservation or appreciation in value of their respective estates.” (Internal quotation marks omitted.) *Anketell v. Kulldorff*, 207 Conn. App. 807, 834–35, 263 A.3d 972, cert. denied, 340 Conn. 905, 263 A.3d 821 (2021).

“[A] fundamental principle in dissolution actions is that a trial court may exercise broad discretion in . . . dividing property as long as it considers all relevant statutory criteria. . . . While the trial court must consider the delineated statutory criteria [when allocating property], no single criterion is preferred over others, and the court is accorded wide latitude in varying the weight placed upon each item under the peculiar circumstances of each case. . . . In dividing up property, the court must take many factors into account. . . . A trial court, however, need not give each factor equal weight . . . or recite the statutory criteria that it considered in making its decision or make express findings as to each statutory factor.” (Internal quotation marks omitted.) *Kent v. DiPaola*, 178 Conn. App. 424, 431–32, 175 A.3d 601 (2017).

“[W]e do not review the evidence to determine whether a conclusion different from the one reached could have been reached. . . . Thus, [a] mere difference of opinion or judgment cannot justify our intervention. Nothing short of a conviction that the action of the trial court is one which discloses a clear abuse of discretion can warrant our interference.” (Internal quotation marks omitted.) *Langley v. Langley*, 137 Conn. App. 588, 591, 49 A.3d 272 (2012).

Bearing these principles in mind, we review the court’s decision to award the plaintiff the comic book collection without granting the defendant’s motion to have it appraised. At trial, the court stated that having the comic book collection appraised was “probably not . . . necessary,” but it would hear evidence regarding its value. The court noted in its memorandum of decision that the only real asset of any value that either party had was the comic book collection that the plaintiff started as a child, and it further concluded that the defendant did not make any contributions to the

collection. The court noted that there was evidence that the comic book collection may be worth \$150,000. The court also stated that “[t]he record is clear that the defendant brought no significant assets into the marriage.” The court also found that the “defendant introduced no evidence as to any contribution she may have made to the acquisition, preservation or appreciation in value of any of the plaintiff’s assets.” Applying the factors set forth in § 46b-81, the court concluded that the parties’ marriage was of a short duration and the defendant did not contribute to the acquisition, preservation, or appreciation in value of any of the plaintiff’s assets. The court’s decision to permit the plaintiff to retain the comic book collection was not related to the court’s assessment of its value and, thus, the defendant is unable to establish that the absence of an appraisal somehow affected the court’s ultimate disposition concerning the parties’ assets. Considering the totality of the court’s findings and orders, we cannot conclude that the court abused its discretion in awarding the plaintiff his comic book collection without hearing evidence from an appraiser as to its value.

IV

The defendant next claims that the court erred in failing to impute an income of \$150,000 to the plaintiff. Specifically, the defendant argues that, on the basis of the evidence before it, it was clearly erroneous for the court not to impute an income of \$150,000 to the plaintiff. We are not persuaded.

We begin by setting forth the relevant legal principles that govern the resolution of this claim. It is well settled that “[a]n appellate court will not disturb a trial court’s orders in domestic relations cases unless the court has abused its discretion or it is found that it could not reasonably conclude as it did, based on the facts presented. . . . It is within the province of the trial court to find facts and draw proper inferences from the evidence presented. . . . In determining whether a trial court has abused its broad discretion in domestic relations matters, we allow every reasonable presumption in favor of the correctness of its action. . . . [T]o conclude that the trial court abused its discretion, we must find that the court either incorrectly applied the law or could not reasonably conclude as it did. . . . Appellate review of a trial court’s findings of fact is governed by the clearly erroneous standard of review. . . . A finding of fact is clearly erroneous when there is no evidence in the record to support it . . . or when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.” (Internal quotation marks omitted.) *Milazzo-Panico v. Panico*, 103 Conn. App. 464, 467–68, 929 A.2d 351 (2007).

“[O]ur case law is clear that a party’s earning capacity is the amount that he or she realistically can be expected

to earn. . . . It is not the amount the party previously has earned or currently may be earning.” (Citation omitted; emphasis omitted.) *Steller v. Steller*, 181 Conn. App. 581, 592, 187 A.3d 1184 (2018). “In marital dissolution proceedings, *under appropriate circumstances* the trial court *may* base financial awards on the earning capacity rather than the actual earned income of the parties . . . when . . . there is specific evidence of the [party’s] previous earnings. . . . It is particularly appropriate to base a financial award on earning capacity where there is evidence that the [party] has voluntarily quit or avoided obtaining employment in [the party’s] field.” (Emphasis in original; internal quotation marks omitted.) *Brown v. Brown*, 148 Conn. App. 13, 21–22, 84 A.3d 905, cert. denied, 311 Conn. 933, 88 A.3d 549 (2014). “Earning capacity, in this context, is not an amount which a person can theoretically earn, nor is it confined to actual income, but rather it is an amount which a person can realistically be expected to earn considering such things as his vocational skills, employability, age and health.” (Internal quotation marks omitted.) *Elia v. Elia*, 99 Conn. App. 829, 833, 916 A.2d 845 (2007).

With respect to this claim, the court found that “the defendant presented no compelling evidence from which [the] court could conclude that the plaintiff ha[d] consistently earned more than \$150,000 in each year of the marriage.” The court noted that, although the plaintiff “filed a loan application which listed his income as \$150,000 . . . this is an insufficient ground for the court to find an earning capacity higher than his reported annual earnings, none of which have exceeded \$60,000 since the date of the marriage. A careful review of the plaintiff’s business checking account records submitted into evidence by the defendant shows no unusual activity that would support the defendant’s claims of consistent annual income in excess of \$150,000.” The court concluded, based on the evidence before it, that the plaintiff’s reported annual earning as a self-employed information technology consultant was “approximately \$56,000 in 2015, \$36,000 in 2016, \$55,000 in 2017, \$56,000 in 2018, and \$30,000 in 2019.” The court did not, nor was it required to, make a finding of the plaintiff’s earning capacity. As it was entitled to do, the court relied on the plaintiff’s actual income. See *Leonova v. Leonov*, 201 Conn. App. 285, 322–26, 242 A.3d 713 (2020) (court was entitled to rely on plaintiff’s actual income instead of plaintiff’s earning capacity when determining alimony and child support), cert. denied, 336 Conn. 906, 244 A.3d 146 (2021).

After a careful review of the record, we conclude that the court’s finding with respect to the plaintiff’s income is consistent with the evidence before it, and we are not left with a definite and firm conviction that a mistake has occurred. Accordingly, we conclude that the court’s findings in this regard are not clearly errone-

ous.

V

Finally, the defendant claims that the court abused its discretion and exceeded its statutory authority when it found that she committed fraud when she submitted an application seeking asylum on the basis of domestic abuse. Specifically, she argues that the application she filed regarding her immigration status was not in evidence before the court, and, therefore, the court could not have properly found that it was fraudulently submitted. The defendant's claim depends on the court having made the factual finding at issue. Thus, we carefully examine the court's decision to determine, first, if the challenged finding is set forth therein. For the reasons that follow, we do not interpret the court's decision to include such a finding.

In the present case, the defendant filed an amended cross complaint in which she alleged intolerable cruelty as a ground for dissolution. With respect to this allegation, the court found "a complete failure of proof as to the . . . claim of intolerable cruelty." The court, citing *Bosworth v. Bosworth*, 131 Conn. 389, 40 A.2d 186 (1944), noted that "[i]ntolerable cruelty has a subjective as well as an objective significance. There must not only be proof of acts of cruelty on the part of the offending party but proof that in their cumulative effect upon the other party they are intolerable." (Internal quotation marks omitted.) *Id.*, 390–91. The court then found that, "[e]ven allowing for the possibility of a subjective interpretation, the court finds no acts of extreme or intolerable cruelty visited upon the defendant in this case."

Moreover, the court noted that the defendant had recently submitted a petition with the Department of Homeland Security seeking immigrant status on the basis of her allegations of abuse. The court further noted that neither party had submitted as evidence a copy of the defendant's petition seeking asylum or a change in her immigration status based on her claims of abuse. In a footnote of its decision, the court noted that it suspected that the defendant had filed a petition pursuant to 8 U.S.C. § 1154 (2018).¹² The court further noted that, "[i]f so, the defendant filed a materially false statement intending that the [United States] government would rely on it." (Emphasis added.) The court found the defendant's allegations of abuse not credible. We do not interpret the court's comments, which refer to the mere possibility that the defendant had filed an immigration petition, to be a finding that fraud was committed. Rather, we interpret the court's comments as an assessment of the defendant's credibility in general and, specifically, as it relates to her allegations of abuse and intolerable cruelty. See *State v. Montana*, 179 Conn. App. 261, 265–66, 178 A.3d 1119 ("[c]redibility determinations are the exclusive province of the . . .

fact finder” (internal quotation marks omitted)), cert. denied, 328 Conn. 911, 178 A.3d 1042 (2018). The claim fails because we are unable to review a ruling that was not made. See *Lane v. Cashman*, 179 Conn. App. 394, 416, 180 A.3d 13 (2018).

The judgment is affirmed.

In this opinion the other judges concurred.

¹ We note that, in her brief, the defendant raised first her claim that the court erred in not finding the plaintiff in contempt and in denying her attorney’s fees. In part II of this opinion, we elect to address this claim second and present it in this order accordingly.

² The plaintiff failed to file a brief in this court, and we have considered the appeal on the basis of the defendant’s brief and the record. The defendant waived her right to oral argument on appeal.

³ On July 28, 2020, the defendant executed a waiver of service pursuant to General Statutes § 46b-45 (b).

⁴ Practice Book § 25-5 governs automatic orders in dissolution actions and requires that service of automatic orders “be made with service of process of a complaint for dissolution of marriage” The automatic orders provide in relevant part that “[t]he parties shall each complete and exchange sworn financial statements substantially in accordance with a form prescribed by the chief court administrator within thirty days of the return day. . . .” Practice Book § 25-5 (c) (1). Practice Book § 25-5 further provides: “Failure to obey these orders may be punishable by contempt of court.”

⁵ On February 7, 2022, the court issued a corrected memorandum of decision to address scrivener’s errors.

⁶ The court found that the plaintiff reported annual earnings of approximately \$56,000 in 2015, \$36,000 in 2016, \$55,000 in 2017, and \$56,000 in 2018.

⁷ General Statutes § 46b-81 governs the assignment of property in a dissolution action. It provides in relevant part: “[T]he court, after considering all the evidence presented by each party, shall consider the length of the marriage, the causes for the . . . dissolution of the marriage . . . the age, health, station, occupation, amount and sources of income, earning capacity, vocational skills, education, employability, estate, liabilities and needs of each of the parties and the opportunity of each for future acquisition of capital assets and income. The court shall also consider the contribution of each of the parties in the acquisition, preservation or appreciation in value of their respective estates.” General Statutes § 46b-81 (c).

⁸ General Statutes § 46b-82 governs the award of alimony in a dissolution action and provides in relevant part: “(a) . . . In determining whether alimony shall be awarded, and the duration and amount of the award, the court shall consider the evidence presented by each party and shall consider the length of the marriage, the causes for the . . . dissolution of the marriage . . . the age, health, station, occupation, amount and sources of income, earning capacity, vocational skills, education, employability, estate and needs of each of the parties and the award, if any, which the court may make pursuant to section 46b-81”

⁹ The defendant does not indicate in her brief to this court which other pretrial motions are the subject of this claim. Accordingly, we confine our analysis to the motion for contempt.

¹⁰ We note that the record does not reflect that, before the trial court, the defendant presented evidence of attorney’s fees incurred by her generally or attorney’s fees restricted to her efforts related to the contempt motion.

¹¹ The defendant does not separately brief her argument that the court should have considered the comic book collection in determining the financial positions of the parties and its award of alimony. To the extent this argument could be recognized as a separate claim, we conclude that it is inadequately briefed and do not address it further. See *C. B. v. S. B.*, 211 Conn. App. 628, 630, 273 A.3d 271 (2022) (“[a]nalysis, rather than mere abstract assertion, is required in order to avoid abandoning an issue by failure to brief the issue properly” (internal quotation marks omitted)).

¹² In relevant part, 8 U.S.C. § 1154 (a) (1) (A) (iii) (I) provides that “[a]n alien . . . may file a petition with the Attorney General under this clause for classification of the alien . . . if the alien demonstrates to the Attorney General that—(aa) the marriage or the intent to marry the United States citizen was entered into in good faith by the alien; and (bb) during the marriage or relationship intended by the alien to be legally a marriage, the

alien or a child of the alien has been battered or has been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse.”
